

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

| | | |
|---------------------------|---|--------------------|
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | No. 3:06-CR-73 |
| |) | (PHILLIPS/SHIRLEY) |
| LAWANNA BROCK, |) | |
| |) | |
| Defendant. |) | |
| |) | |

MEMORANDUM AND ORDER

All pretrial motions in this case have been referred to the undersigned pursuant to 28 U.S.C. § 636(b) for disposition or report and recommendation regarding disposition by the District Court as may be appropriate. This cause came before the undersigned on July 26, 2006, for a hearing on Defendant Lawanna Brock's Motion to Continue [Doc. 7], filed on July 13, 2006, and Supplement To Motion To Continue [Doc. 8], filed on July 21, 2006. Assistant United States Attorney Cynthia Davidson, appeared on behalf of the government. Attorney Thomas Dillard represented Defendant, who was also present at the hearing.

In her motion and supplement, Defendant requests a continuance of the August 22, 2006 trial date and an extension of the July 21, 2006 motion deadline. In support thereof, Attorneys Davies and Dillard contend that (1) they need more time to understand the entire scope of the investigation, (2) they are currently preparing for trials scheduled in late July and early September, and (3) they contemplate filing substantive motions in this case. On July 24, 2006, the government

filed a written response to Defendant's motion [Doc. 9], stating that it does not object to a continuance of the trial in this case.

The Court questioned the Defendant at the hearing, who stated that she understood that she must continue to comply with the terms of her release pending the new trial date.

The Court finds Defendant Brock's Motion to Continue [Doc. 7] to be well taken and finds that the ends of justice served by granting the motion outweigh the best interest of the public and the Defendant in a speedy trial. 18 U.S.C. § 3161(h)(8)(A). The Court finds the failure to grant the continuance would deprive Defendant Brock of continuity of counsel, would deprive the parties of adequate time for the Court to consider, hear argument and rule upon any additional pretrial motions filed in this case, and would deprive the parties of the reasonable time necessary to prepare for trial effectively, even taking into account the parties' exercise of due diligence. See 18 U.S.C. § 3161(h)(8)(B)(iv). The Court finds that this process could not be accomplished before the August 22, 2006 trial date or in less than approximately two and one half (2.5) months. The Court finds that if the continuance were not granted a miscarriage of justice would occur. 18 U.S.C. 3161(h)(8)(B)(i). Accordingly, the Court **GRANTS** Defendant Brocks's Motion To Continue [**Doc. 7**].

In light of these findings and its granting of the Defendant's motion, the Court set a new trial date of **October 10, 2006**. The Court further finds, and the parties agreed, that all the time between the filing of Defendant's motion on **July 13, 2006**, and the new trial date of **October 10, 2006**, is fully excludable time under the Speedy Trial Act for the reasons set forth herein. See 18 U.S.C. § 3161(h)(1)(F), (8)(A)-(B). Regarding further scheduling, the motion-filing deadline is extended to **September 1, 2006**. Responses are due on or before **September 15, 2006**. The parties

are to appear before the undersigned for a pretrial conference/motion hearing on **September 22, 2006, at 1:30 p.m.**

Accordingly, it is **ORDERED:**

(1) Defendant Brocks's Motion To Continue [**Doc. 7**] is **GRANTED**;

(2) The trial of this matter is reset to commence on **October 10, 2006, at 9:00 a.m.**, before the Honorable Thomas Phillips, United States District Judge;

(3) All time between the filing of Defendant's **July 13, 2006** motion, and the new trial date of **October 10, 2006**, is fully excludable time under the Speedy Trial Act for the reasons set forth above;

(4) A new motion deadline is set for **September 1, 2006**;

(5) Responses are due on or before **September 15, 2006**; and

(6) A pretrial conference/motion hearing is set for **September 22, 2006, at 1:30 p.m.**, before the undersigned.

IT IS SO ORDERED.

ENTER:

s/ C. Clifford Shirley, Jr.
United States Magistrate Judge